

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

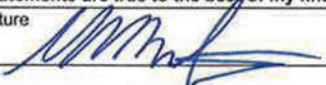
10-RC-269250

Date Filed

11/20/2020

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov/, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer: Amazon		2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code): 975 Powder Plant Road, Bessemer, AL 35022	
3a. Employer Representative - Name and Title: Travis Maynard, Director of Operations		3b. Address (if same as 2b - state same): Same	
3c. Tel. No. 888-892-7180	3d. Cell No.	3e. Fax No.	3f. E-Mail Address
4a. Type of Establishment (Factory, mine, wholesaler, etc.): Warehouse and Distribution Center		4b. Principal Product or Service Shipment of goods and products	5a. City and State where unit is located: Bessemer, Alabama
5b. Description of Unit Involved: Included: See Attached Sheet Excluded: See Attached Sheet			6a. Number of Employees in Unit: 1,500 6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Check One: <input checked="" type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) 10/20/2020 and Employer declined recognition on or about (Date) 10/20/2020 (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
8a. Name of Recognized or Certified Bargaining Agent (if none, so state) None		8b. Address:	
8c. Tel. No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
8g. Affiliation, if any:		8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
9. Is there now a strike or picketing at the Employer's establishment(s) involved? No If so, approximately how many employees are participating? _____ (Name of Labor Organization) _____, has picketed the Employer since (Month, Day, Year) _____			
10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state) None			
10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address
11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election: Manual Election		11a. Election Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	
11b. Election Date(s): December 27 through 30, 2020		11c. Election Time(s): 24 hour polling stations	11d. Election Location(s): Employer facility
12a. Full Name of Petitioner (including local name and number): Retail, Wholesale and Department Store Union		12b. Address (street and number, city, State and ZIP code): 1901 10th Avenue South, Birmingham, AL 35205	
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state): United Food and Commercial Workers, International Union			
12d. Tel. No. 205-322-7462	12e. Cell No.	12f. Fax No. 205-322-8447	12g. E-Mail Address jbrewer@rwdsumidsouth.org
13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
13a. Name and Title: George N. Davies, Attorney Richard P. Rouco, Attorney		13b. Address (street and number, city, State and ZIP code): 2 - 20th Street North, Suite 930, Birmingham, AL 35203	
13c. Tel. No. 205-870-9989	13d. Cell No.	13e. Fax No.	13f. E-Mail Address gdavies@qcwdr.com; rrouco@qcwdr.com
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) George N. Davies	Signature 	Title Attorney	Date 11/20/20

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

ATTACHMENT TO RC PETITION – AMAZON AND RWDSU

5b. Description of Unit Involved:

Included:

All hourly full-time and regular part-time fulfillment center employees including leads and learning ambassadors.

Excluded:

All truck drivers, seasonal employees, temporary employees, clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees and all supervisors as defined by the Act.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 10
233 Peachtree St NE
Harris Tower Ste 1000
Atlanta, GA 30303-1504

Agency Website: www.nlrb.gov
Telephone: (404)331-2896
Fax: (404)331-2858



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November 20, 2020

URGENT

tmaynard@amazon.com
Travis Maynard, Director of Operations
Amazon
975 Powder Plant Rd
Bessemer, AL 35022-5497

Re: Amazon
Case 10-RC-269250

Dear Mr. Maynard:

Enclosed is a copy of a petition that Retail, Wholesale and Department Store Union filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner Lanita T. Cravey whose telephone number is (205)518-7514. The mailing address is 1130 22nd St S Ridge Park Place Ste 3400, Birmingham, AL 35205-2885. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Resident Officer Katherine Chahrouri whose telephone number is (205)518-7511. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by **Friday, November 27, 2020** in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to

them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on Thursday, December 03, 2020**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon December 03, 2020.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from

contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Responsive Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Central Time on Tuesday, December 08, 2020.**

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Friday, December 11, 2020 via Zoom Videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'LH', with a long horizontal line extending to the right.

LISA HENDERSON
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Retail, Wholesale and Department Store Union has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 10-RC-269250 seeking an election to become certified as the representative of the employees of Amazon in the unit set forth below:

Included: All hourly full-time and regular part-time fulfillment center employees including leads and learning ambassadors.

Excluded: All truck drivers, seasonal employees, temporary employees, clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees and all supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (205)933-3018.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 10
233 Peachtree St NE
Harris Tower Ste 1000
Atlanta, GA 30303-1504

Agency Website: www.nlrb.gov
Telephone: (404)331-2896
Fax: (404)331-2858



Download
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November 20, 2020

URGENT

jbrewer@rwdsumidsouth.org
Josh Brewer, Representative
Retail, Wholesale, and Department Store, Local 932
1901 10th Ave South
Birmingham, AL 35205-2601

Re: Amazon
Case 10-RC-269250

Dear Mr. Brewer:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner Lanita T. Cravey whose telephone number is (205)518-7514. The mailing address is 1130 22nd St S Ridge Park Place Ste 3400, Birmingham, AL 35205-2885. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Resident Officer Katherine Chahrouri whose telephone number is (205)518-7511. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Showing of Interest: If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Friday, December 11, 2020 via Zoom Videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Friday, November 27, 2020** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Central Time on Thursday, December 3, 2020**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

Required Responsive Statement of Position (RSOP): In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on Tuesday, December 8, 2020**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but**

after noon Central Time. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Voter List: If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance

for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'LH', with a long horizontal line extending to the right.

LISA HENDERSON
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

cc: George N. Davies, Attorney
Quinn, Connor, Weaver, Davies and Rouco LLP
2-20th St N Ste 930
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Richard P. Rouco, Attorney
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10



Amazon Employer and Retail, Wholesale and Department Store Union Petitioner	Case 10-RC-269250
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Friday, December 11, 2020** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices **via Zoom Videoconference**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Amazon must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on December 03, 2020. Following timely filing and service of a Statement of Position by Amazon, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such they are received by them no later than **noon** Central on December 08, 2020.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlr.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive

Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: November 20, 2020

A handwritten signature in black ink, appearing to read 'LH', with a long horizontal line extending to the right.

LISA HENDERSON
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 10
233 Peachtree St NE
Harris Tower Ste 1000
Atlanta, GA 30303-1504

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon
and

CASE 10-RC-269250

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Employer, Amazon


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☐ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

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CELL PHONE NUMBER:	FAX: 310.907.1001
SIGNATURE: 	
DATE: (Please sign in ink.) November 23, 2020	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon
and

CASE 10-RC-269250

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Employer, Amazon


IN THE ABOVE-CAPTIONED MATTER.

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Retail, Wholesale, and Department Store, Local 932,
Petitioner,
and
Amazon,
Employer

CASE 10-RC-269250

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Amazon, Employer

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

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SIGNATURE: /s/ Geoffrey Rosenthal	
DATE: (Please sign in ink.) Nov. 30, 2020	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

AMAZON.COM SERVICES, LLC)	
)	
)	
Employer,)	
)	
and)	Case No. 10-RC-269250
)	
RETAIL, WHOLESALE AND)	
DEPARTMENT STORE UNION)	
)	
Petitioner.)	
)	

**MOTION TO POSTPONE THE HEARING AND
EXTEND TIME FOR FILING OF STATEMENT OF POSITION**

I. INTRODUCTION

Pursuant to Section 102.63(a)(1) and (b)(1) of the National Labor Relations Board’s (“NLRB’s” or “Board’s”) Rules and Regulations, the Employer, Amazon.com Services, LLC (“Amazon”) moves to postpone both the date of the hearing and the time for filing and serving the Statement of Position related to the petition in this case (“Petition”).

The Board’s initial Order set Amazon’s deadline to submit its Statement of Position for noon on Thursday, December 3, 2020 and the pre-election hearing for Friday, December 11, 2020. The Region should extend both these deadlines. Three separate and independent reasons support this Motion:

- The Petitioner has failed to present an adequate showing of interest. The Region should complete the investigation of this preclusive issue first because that failure should completely determine whether Amazon must assemble any kind of response.
- Given the size of the petitioned-for bargaining unit, Amazon requires significantly more time to fully and fairly investigate and marshal the facts.

- Amazon will face significant delays in its investigation and marshalling of the facts necessary to respond to the Petition. The immediate post-petition period encompassing all of Thanksgiving, “Black Friday,” and “Cyber Monday” is the busiest time of the year for Amazon, and this is a year where more consumers than ever are shopping online and expecting prompt and accurate deliveries. COVID-19 has only made this time period more challenging. Since the onset of the pandemic, Amazon has made more than 150 process changes, from enhanced cleaning and social distancing measures, to changing onboarding protocols and increasing safety training, all of which takes additional time and re-deployment of human resources to ensure maintenance of the highest standards of health and safety due to the global pandemic.

As discussed further below, Amazon respectfully requests that the Region postpone the pre-election hearing until January 11, 2021, or at least until significantly after December 25, 2020. For the same reasons, Amazon requests that the Region extend the deadline for filing and serving the Statement of Position by three business days, until noon on Tuesday, December 8, 2020 (with a corresponding extension granted to Petitioner for its Responsive Statement of Position).

The undersigned counsel contacted counsel for the Petitioner, the Retail, Wholesale and Department Store Union (“RWDSU” or “Petitioner”) via both telephone and email this morning at approximately 10:30 A.M. Eastern time about this request, including the length of the requested extensions and then, after all counsel conferred, on the basic rationale for same. Counsel for Petitioner is conferring with Petitioner on Petitioner’s position on this motion as of the time of this filing.

II. THE REGION SHOULD GRANT AMAZON’S POSTPONEMENT REQUEST.

A. The Petitioner’s Insufficient Showing of Interest Should Moot the Need for Further Proceedings, and a Postponement Would Save Amazon, the Region, and Petitioner from Expending Needless Time and Resources in the Interim.

As a threshold matter, the pending challenge to the Petitioner’s showing of interest warrants postponement of these deadlines. Specifically, Amazon has provided information to the Region that the proposed bargaining unit exceeds that represented in the Petition by approximately 3.75 times. Indeed, even if the entire 1500-employee unit enumerated in the Petition submitted authorization cards on behalf of Petitioner, Petitioner would still fail to show a sufficiency of interest. A high probability exists that the showing of interest is deficient.

Should the Region confirm such inadequacy of interest, it should immediately dispose of the Petition. Indeed, the Board’s Casehandling Manual (“CHM”) provides for a rapid investigation “in order that issues concerning the showing of interest will be resolved before the case progresses beyond the initial stages.” *See* NLRB CHM Part II § 11020 (“Showing of Interest: Purpose”). Determining an insufficiency of interest would moot altogether the need for both filing the Statement of Position and the hearing, as the Manual makes clear:

The purpose of the demonstration of an adequate showing of interest on the part of labor organizations . . . is to determine whether the conduct of an election serves a useful purpose under the statute, i.e., whether there is sufficient employee interest to warrant the expenditure of the Agency’s time, effort and resources in conducting an election. This requirement prevents parties with little or no stake in a bargaining unit from abusing the Agency’s machinery and interfering with the normal administration of the Act and reasonably assures that a genuine representation question exists.

Id. The Region would then dismiss the Petition, absent withdrawal.

Applying these guidelines, the Region should not force the parties to expend considerable time and resources before the Region has had an opportunity to fully consider and rule on Amazon’s requested review of the Petitioner’s showing of interest. A postponement would

allow the Region time to “reasonably assure[] that a genuine representation question exists” and prevent any interference with the normal administration of the Act, as contemplated by the Manual.

B. The Sheer Size of the Proposed Bargaining Unit Justifies Postponement.

The size of the proposed bargaining unit further justifies postponement of these deadlines. By Amazon’s count, the Petitioner seeks to represent approximately 5,723 employees, a greater number than most petitions. In contrast, from January 1, 2019 to date, fewer than 0.5% of RC petitions filed with the Board involved 1,000 or more employees, and *none* involved more than 2,500 employees.¹ In those RC cases where the Region held an election, the average number of employees eligible to vote ranged from 61 to 62 in fiscal years 2019 and 2020. *See* Election Report for Cases Closed (2019), <https://www.nlr.gov/sites/default/files/attachments/pages/node-296/fy-2019-totals.pdf> and Election Report for Cases Closed (2020), <https://www.nlr.gov/sites/default/files/attachments/pages/node-3617/total-closed-cases-fy-2020-pdf.pdf>. The most recent RC case identified with an election of similar size was the Disneyland election (5,757 voters) where the union filed its petition in September 2013 and the pre-election hearing ultimately occurred *in May 2014*. *See Disneyland*, Case 21-RC-112556 (filed on September 4, 2013; RD Order to Reschedule Hearing on May 27, 2014; post-hearing briefs submitted on May 27, 2014).

Concerning unit inclusions and exclusions, Amazon expects to raise in its Statement of Position – and potentially at a hearing – several litigable issues related to the appropriateness of the petitioned-for unit, including issues related to “seasonal employees.” Understanding and

¹ These calculations are based on information obtained through the Board’s “R case reports” database. *See* <https://www.nlr.gov/advanced-search>.

preparing to litigate these issues will involve collecting substantial evidence and engaging in complex and fact-intensive multi-factor analyses, which necessarily will take additional time to accomplish. On top of that, the process changes and additional safety protocols necessitated by COVID-19 (see below) in the context of Amazon's busiest season will interfere with completion of this investigation on an accelerated basis. Thus, failing to postpone these dates will cause prejudice to Amazon's counsel in marshalling, analyzing, and, if necessary, litigating the facts needed for determination of the issues.

Postponing these deadlines will help better serve the Board's pre-election investigatory and hearing process and allow the Board to make a fully informed decision as to the appropriateness of the proposed unit.

C. The Current Consumer and Business Demands Imposed by Amazon's Peak Season Require the Full Attention of Potential Witnesses, and Hearing Preparation Will Cause a Significant and Costly Disruption.

Moreover, absent postponement, Amazon's peak season will render its counsel simply unable to gather the information needed to file an accurate Statement of Position and adequately prepare for a potential hearing. Amazon is now in the midst of its "peak" season (known as "Peak"), which runs from the week before Black Friday (November 27) through a few days after Christmas Eve (December 24, 2020). Declaration of (b) (6), (b) (7)(C) ("Declaration") ¶ 4.²

² (b) (6), (b) (7)(C) Declaration is attached as Exhibit 1.

The fact that Amazon's Peak season is "busy" is as well-documented as it is an understatement.³ During Peak, Amazon's fulfillment centers – including the Bessemer, Alabama fulfillment center that is the subject of this petition ("BHM1") – are fully staffed and operating at maximum capacity. *Id.* BHM1's managers and supervisors are incredibly engaged during this time. *Id.*⁴ During Peak, BHM1 will ship approximately 30% more packages per day compared to the rest of the year. *Id.* This could be even higher this year in what will likely be a historical Peak. *Id.*

³ Brian Deagon, *Amazon Claims Record Holiday Shopping Sales Period*, Investor's Business Daily (Dec. 26, 2019) ("Amazon holiday sales brought in a record number of shoppers during the holiday season, with 'billions of items ordered worldwide' from its site, the company said Thursday."), <https://www.investors.com/news/technology/amazon-holiday-sales-shopping-sets-record/>; *How Lessons From the Record-Breaking 2018 Holiday Season Can Inform Retailers' 2019 Strategy*, McKinsey & Co. (July 29, 2019) (noting that "Amazon had five times the traffic on Cyber Monday as other leading retailers" and, "[o]ver the next four weeks, Amazon's traffic surged even higher, and its conversion rate stayed at this same elevated level, whereas other retailers saw their average December traffic and conversion rates drop off once the extravagance of Black Friday and Cyber Monday was over"), <https://www.mckinsey.com/business-functions/marketing-and-sales/our-insights/how-lessons-from-the-record-breaking-2018-holiday-season-can-inform-retailers-2019-strategy>; Shannon Liao, *Amazon's Holiday Profits Soared Thanks to Black Friday and Cyber Monday*, The Verge (Jan. 31, 2019) ("For Amazon, 2018 was a year of immense growth, and the tech giant capped it off with huge sales from Black Friday, Cyber Monday, and general holiday promotions that lasted through December."), <https://www.theverge.com/2019/1/31/18205671/amazon-q4-2018-earnings-profits-holidays-black-friday-cyber-monday>.

⁴ Sebastian Herrera, *A Day in the Life of an Amazon Warehouse Worker*, Wall Street Journal (Nov. 23, 2020) ("Deborah Liljegren joined Amazon.com Inc. . . . in April as it raced to add warehouse workers to keep up with soaring demand from homebound shoppers. Seven months later, her days are only getting busier. 'The peak season has started,' Ms. Liljegren, 49 years old, said of the holidays...."), <https://www.wsj.com/articles/a-day-in-the-life-of-an-amazon-warehouse-worker-11606127400?mg=prod/com-wsj>; Amy DiPierro, *Inside an Amazon Warehouse in the Final Days Before Christmas*, Desert Sun (Dec. 21, 2019) ("Inside, one Moreno Valley worker said during her first year on the job, in 2014, she typically worked 50 to 60 hours a week during the company's peak season. Now she's part of the Amazon group that organizes games and awards prizes, like coffeemakers and stand-up mixers, to workers with perfect attendance during peak. 'It is nice knowing that people get their gifts in time because we work so hard,' she said."), <https://www.desertsun.com/story/money/2018/12/21/inside-amazon-warehouse-last-twelve-days-until-christmas/2291145002/>; *An Inside Look at Cyber Monday Madness at an Amazon Warehouse in Rialto*, CBS Los Angeles (Dec. 2, 2019) ("Cyber Monday is Amazon's Super Bowl. Amazon estimates that more than one million packages will be mailed out today alone from its Rialto center. Amazon customers ordered a staggering 180 million items between Thanksgiving and Cyber Monday in 2018."), <https://losangeles.cbslocal.com/2019/12/02/an-inside-look-at-cyber-monday-madness-at-an-amazon-warehouse-in-rialto/>.

To meet demand, BHM1 managers and supervisors are fully engaged in operations of the facility and exceptionally busy. *Id.* ¶ 6. Most managers and supervisors currently are working 5 days and a minimum of 55 hours per week, and some are expecting to work between 70 and 80 hours a week between now and the end of Peak. *Id.* ¶¶ 7–8. There also is a vacation blackout through December 24, meaning that managers cannot schedule time off until Peak ends on December 25. *Id.* ¶ 9. Managers and supervisors customarily avail themselves of vacation right after December 25, as well as the first week of January, and the week after Christmas is one of the hardest weeks to operate a fulfillment center like BHM1 because of the number of managers, supervisors, and hourly associates who will take time off. *Id.*

Managers and supervisors also are performing additional job duties to assist employees in order to meet demand, such as assisting with cleanup to get BHM1 ready each day and passing out thank you incentives and prizes to employees as a reward for their efforts. *Id.* ¶ 10. Managers also are helping to train and onboard new seasonal associates within new protocols due to COVID-19, performing Peak-specific audits, working with Amazon’s Problem Solving Team to mitigate disruptions, and performing extra work to reduce backlogs when hourly associates take their breaks. *Id.* These responsibilities will fully occupy key witnesses and contacts.

In addition, in response to the COVID-19 pandemic, Amazon has implemented 150 enhanced cleaning procedures and protocols at all of its fulfillment centers, including BHM1.⁵ *Id.* ¶ 11. Managers regularly check with associates to ensure that they have the necessary supplies to clean their stations, are wearing their masks properly at all times, and are adhering to

⁵ See <https://www.aboutamazon.com/news/operations/every-day-is-day-one-for-health-and-safety-training> and <https://www.aboutamazon.com/news/company-news/how-were-taking-care-of-employees-during-covid-19>.

applicable social distancing requirements. *Id.* Managers are also regularly distributing masks, and making available handwashing stations, sanitizing spray and wipes, and other personal protective equipment. *Id.* Amazon's commitment to safety also has required managers to change how they communicate with associates. *Id.* For example, prior to the pandemic, managers communicated important messages to associates during group stand up meetings because they were efficient but now cannot do so due to COVID-19 safety protocols. *Id.* Now, as an example, managers are communicating with associates through several alternative means, with one being through individual, face-to-face meetings, *id.*, which obviously takes significantly more time, especially given the size of BHM1 (855,000 square feet) and the number of employees working at the site. The COVID-19 protocols also require managers and additional personnel dispatched into safety ambassadors to spend additional time coordinating associates' break and lunch schedules, both to ensure that associates remain safe when they are taking their breaks and to avoid gridlocking operations. *Id.* All of this adds another layer of complexity to maintaining operations during Peak. *Id.*

Like other online retailers,⁶ Amazon anticipates Peak to be particularly busy this year due to increased demand driven largely by the COVID-19 pandemic and consumer reluctance to

⁶ Tamara Charm et al., *The Great Consumer Shift: Ten Charts That Show How US Shopping Behavior Is Changing*, McKinsey & Company (Aug. 4, 2020) ("Consumer intent to shop online continues to increase, especially in essentials and home-entertainment categories. More interestingly, these habits seem like they're going to stick as US consumers report an intent to shop online even after the COVID-19 crisis."), <https://www.mckinsey.com/business-functions/marketing-and-sales/our-insights/the-great-consumer-shift-ten-charts-that-show-how-us-shopping-behavior-is-changing>; Blake Morgan, *More Customers Are Shopping Online Now Than at Height of Pandemic, Fueling Need for Digital Transformation*, Forbes (July 27, 2020) ("Consumers around the country have been sheltering in place for months and taking most of their shopping online—and the trend isn't going anywhere. In fact, more consumers have shopped online since physical stores started re-opening than did when stores were still closed. . . . And those numbers are likely to stay steady or increase before they start to go down. The same survey found that the average consumer doesn't expect the pandemic to end until February 2021, meaning that retailers have at least eight months of increased online orders."), <https://www.forbes.com/sites/blakemorgan/2020/07/27/more-customers-are-shopping-online-now-than-at-height-of-pandemic-fueling-need-for-digital-transformation>.

utilize traditional brick and mortar retailers.⁷ *Id.* ¶ 12. Now, more than at any other time during the year, managers and supervisors are critical to maintaining the continuity of BHM1’s operations. *Id.* ¶ 13. Removing managers and supervisors from their posts for any period for document review/explanation, interviews, or witness preparation would be extremely disruptive, hinder the fulfillment center’s ability to meet the demands of Peak, and cause the fulfillment center significant operational harm. *Id.* The two weeks after Peak are little better, because many managers and supervisors customarily then take vacation. *Id.* ¶ 9.

⁷ James Coker, *Amazon Sales Surge as It Prepares for Busy Holiday Season*, Essential Retail (Oct. 30, 2020) (“[Amazon] revealed it is already seeing signs that an unprecedented number of customers will be shopping online during the busy fourth quarter, which includes Black Friday and the Christmas period.”), <https://www.essentialretail.com/news/amazon-sales-surge-busy-holiday>; Jeremy C. Owens, *Amazon Has Already Had Its Most Profitable Year Ever, and Just Set a Record for Sales in a Quarter*, MarketWatch (Oct. 29, 2020) (“Amazon has experienced a surge in usage amid the COVID-19 pandemic, as Americans and others worldwide facing shelter-in-place orders due to the spread of the coronavirus order essentials online. The company has expanded rapidly to address the needs, pushing its workforce to more than 1 million people.”), <https://www.marketwatch.com/story/amazon-has-already-had-its-most-profitable-year-ever-and-the-holidays-are-still-on-the-way-11604002512>; Dave Sebastian, *Amazon to Add 100,000 Jobs for Coming Holiday Season*, Wall Street Journal (Oct. 28, 2020) (“The e-commerce giant on Tuesday said the seasonal workers would pack and deliver items, among other roles, during the holiday shopping rush. The additions build on the company’s hiring spree this year to meet soaring demand during the coronavirus pandemic, even as companies across a range of industries have cut their workforces and filed for bankruptcy.”), <https://www.wsj.com/articles/amazon-to-hire-100-000-seasonal-workers-for-holidays-11603809426#:~:text=Last%20month%2C%20the%20company%20said,technology%20jobs%20it%20is%20adding>; Alexis Benveniste, *Amazon Plans to Add 100,000 Seasonal Workers in Holiday Hiring Blitz*, CNN Business (Oct. 27, 2020) (“In preparation for holiday shopping, Amazon is adding 100,000 seasonal jobs.”), <https://www.cnn.com/2020/10/27/tech/amazon-seasonal-job-hiring/index.html>; Sebastian Herrera, *Amazon’s Prime Day Accelerates Shift to Online Shopping*, Wall Street Journal Online (Oct. 16, 2020) (“Amazon is leading a pack of major retailers in showing how online spending will play a greater role than ever these holidays . . .”), <https://www.wsj.com/articles/amazons-prime-day-accelerates-shift-to-online-shopping-11602846014?mg=prod/com-wsj>; Annie Palmer, *Amazon Restricts Warehouse Storage as Covid-19 Crisis Continues and Holidays Loom*, CNBC (July 13, 2020) (noting that new inventory restrictions at its warehouses “show how Amazon is preparing for this year’s holiday shopping season, which is likely to be more challenging than before given the Covid-19 pandemic”), <https://www.cnbc.com/2020/07/13/amazon-restricts-warehouse-storage-to-prepare-for-holiday-rush.html>. This has been described as a “permanent shift” to e-commerce. See Michael Corkery and Sapna Maheshwari, *As Customers Move Online, So Does the Holiday Shopping Season*, N.Y. Times (Nov. 23, 2020) (“Last week, Walmart, the nation’s largest retailer, reported that e-commerce sales increased 79 percent in the third quarter, while its rival Target said its e-commerce business was up 155 percent. Amazon’s sales increased 37 percent. . . . Retail executives said that staggering growth was not a fluke of the pandemic lockdowns, but the result of a permanent shift in how people shop.”), <https://www.nytimes.com/2020/11/23/business/retailers-ecommerce-black-friday.html>.

Given these constraints – along with the logistical challenges presented by the COVID-19 pandemic – good cause exists to grant Amazon’s request to postpone the Statement of Position deadline and the hearing date. These logistical challenges will interfere with Amazon’s counsel opportunity to meet with the individuals who can provide the information necessary to prepare the Statement of Position and identify any issues relating to the appropriateness of the proposed unit. Amazon’s counsel also will confront challenges with preparing and presenting potential witnesses to testify at a possible hearing. In addition to the extraordinary number of hours that all of Amazon’s employees are dedicating to ensure continuity of operations during Peak,⁸ the COVID-19 pandemic also necessitates meeting with potential witnesses remotely, which may hinder and/or cause further delay in Amazon’s ability to prepare for the hearing.

Furthermore, the size of the bargaining unit and the issues that Amazon plans to raise in response to the Petition will require the collection of a significant number of documents. It will take time to identify, collect, copy, transmit, and analyze these documents for purposes of completing the Statement of Position, as well as to prepare these documents for a potential hearing.

III. CONCLUSION

For these reasons, the Employer respectfully requests that the Region postpone the pre-election hearing until on or after January 11, 2021, or, in the alternative, significantly after December 25, 2020, and postpone the deadline for filing and serving the Statement of Position

⁸ Amazon’s employees are considered “essential” under federal guidelines. *See* Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response (Version 4.0), CISA, at 22 (Aug. 18, 2020) (“Workers supporting ecommerce of essential goods through distribution, warehouse, call center facilities, and other essential operational support functions, that accept, store, and process goods, and that facilitate their transportation and delivery.”), https://www.cisa.gov/sites/default/files/publications/Version_4.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_FINAL%20AUG%2018v3.pdf.

until noon on December 8, 2020 (with a corresponding extension granted to Petitioner for its Responsive Statement of Position).

Dated: November 30, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Employer's Motion to Postpone the Hearing and Extend Time for Filing of Statement of Position was filed today, November 30, 2020, using the NLRB's e-Filing system and was served by email upon the following:

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

AMAZON.COM SERVICES, LLC

Employer,

Case 10-RC-269250

and

**RETAIL, WHOLESALE AND
DEPARTMENT STORE UNION**

Petitioner.

**PETITIONER'S RESPONSE TO EMPLOYER'S MOTION TO POSTPONE THE
HEARING AND EXTEND TIME FOR FILING STATEMENT OF POSITION**

The Petitioner the Retail, Wholesale and Department Store Union (the "Union") submits the following response in opposition to Amazon.com Services, LLC (the "Employer" or "Amazon") Motion to Postpone the Hearing and Extend Time for Filing of Statement of Position. The Union opposes the Employer's request to postpone the pre-election hearing until January 11, 2021. The Regional Director has the discretion to conduct an investigative hearing to gather additional evidence related to the number of employees in the petitioned for unit and should conduct a hearing on December 11, 2020 for such purposes and any other pre-election matters. Absent a stipulation and/or assuming December 11, 2020 hearing does not address all the outstanding issues, the Regional Director should promptly set a second hearing no later than December 30, 2020.

A. Procedural Background.

1. On November 20, 2020 the Union filed its petition in this case and the Region issued a Notice of Hearing ("NOH") setting a pre-election hearing for December 11, 2020.

2. The Employer now moves to postpone the hearing scheduled for December 11 for thirty (30) days to January 11, 2021 “or at least until significantly after December 25, 2020”. (Employer Motion, p. 2). The Employer cites three reasons for its request: its challenge to the Union’s showing of interest, the size the petitioned for unit and because Amazon is in its “peak” season. A hearing date of January 11, 2021 would be fifty-two (52) days from the filing of the petition in this case. As noted above, the Union believes that the Region should conduct a hearing on December 11 to address any remaining issues regarding the showing of interest and other pre-election matters. Assuming the parties don’t subsequently execute a stipulated election agreement, the Region should schedule a second hearing no later than December 30 to address any remaining issues.

B. Disputes regarding the showing of interest will likely require the Regional Director to conduct a hearing to gather additional information on this issue and unit issues related to the petition.

3. With respect to the showing of interest issue, the Employer argues that the hearing scheduled for December 11, 2020 should be postponed because “a high probability exists that the showing of interest is deficient” and this would moot the need for a hearing. The Employer contends that the unit consists of approximately 5,723 employees and that even if the Union obtained a showing of interest from all 1,500 employees identified as comprising the unit, such showing would fall below the 30 percent threshold. The 30 percent showing of interest requirement is a purely administrative matter, designed to determine whether enough employees want an election to warrant expenditure of Board's resources. “It is not statutorily required, nor is it intended to create a right in any party to protest the conduct of an election.” *River City Elevator Co.*, 339 NLRB 616 (2004). Likewise, a question regarding the showing of interest does not entitle the Employer to avoid a hearing on matters that may impact the sufficiency of the showing or to a dismissal of the petition.

4. In this case, the Union has submitted a showing of interest from a substantial number of employees that would satisfy the Board's 30 percent rule even in a unit substantially larger than 1,500 employees. Thus, a finding that the unit has fewer than the claimed 5,723 employees could result in a sufficient showing of interest under the Board's rules. There are good reasons to doubt that the petitioned for unit includes 5,723 employees. First, the Employer's sortable fulfillment centers are approximately 800,000 square feet and accommodate approximately 1,500 full time associates.¹ The non-sortable fulfillment centers are typically 600,000 square feet and accommodate approximately 1,000 full time associates. *Id.* Thus from facilities standpoint, it defies logic that a facility built to accommodate around 1,500 full time associates can accommodate 5,723 employees.² This number is even more suspect given the Employer's claim that it fully complies with Covid-19 requirements. How do you fit that many employees into a facility designed to accommodate around 1,500 full time employees and still comply with Covid-19 guidelines? Second, at the opening of the Bessemer fulfillment center, the Employer announced that it had hired approximately 1,500 full time associates, which is the number consistent with earlier representations and with the size of the facility.³ Though the facility can probably accommodate more than 1,500 full time associates, the exponential increase represented by 5,723 is difficult to accept at face value.

5. Given that the petitioned-for unit excludes seasonal and causal employees, the number of such employees alone may very well affect the showing of interest analysis. Thus, there

¹ See, <https://www.aboutamazon.com/workplace/facilities>.

² A facility designed to accommodate approximately 1,500 full time associates would not be able to accommodate the parking needs of 5,723 employees. The parking facilities at the Bessemer fulfillment center are not equipped to handle 5,723 employees and, indeed, the number of vehicles at any given time would not account for this inflated number.

³ See, <https://www.bizjournals.com/birmingham/news/2020/04/16/amazon-officially-opens-in-bessemer-jobs-still.html>

are intertwined issues of what job descriptions and employees should be in the petitioned for unit which may require a hearing in this case. Thus, until those issues are resolved, the Region may not be able to resolve the Employer's challenge to the showing of interest without a hearing.

C. Size alone is not the relevant consideration.

6. Though it's doubtful that there are 5,723 employees in the petitioned for unit, the Union concedes that the petitioned for unit in this case is large. However, disputes over what constitutes an appropriate unit don't depend on the number of employees but instead on the jobs and working conditions of these employees. A facility with 1,500 employees (or even one with 3,000) may only have a handful of job titles with similar pay, benefits and working conditions in the petitioned for unit. As Mr. Maynard indicates in his declaration, the employees in the petitioned for unit will "stow, count, pick, pack, and load packages into trailers for [Employer's] customers and perform other associated duties." *See*, Motion to Postpone, Maynard Declaration, ¶ 3. There is no indication that the petition inappropriately excludes a group of employees that share a community of interest with those in the petitioned for unit. What we do know is that the substantial number of employees who have requested Union representation are entitled to a prompt election without unnecessary delays. The Union submits that fifty-two days between the filing of the petition and a hearing to determine who gets to vote is an unnecessary delay.

D. The Employer's "peak season" rationale isn't a sufficient basis to postpone a hearing until January 11, 2021.

7. With respect to the Employer's claim that its supervisors and managers will not be available to assist counsel in preparing the statement of position and preparing for the hearing, the Employer cites no authority for the proposition that "peak season" is a basis for delaying the processing of a petition. This argument also presumes substantial disagreements over the unit description that would require extensive testimony or that could not be resolved by simply agreeing

to allow employees in disputed classifications to vote subject to challenge; thereby deferring such disputes to post-election procedures. Though counsel for the Union appreciates the need for Employer's lawyers to consult with their client, it's mere conjecture that they will need the testimony of a substantial number of supervisors and managers such that it would interfere with the Employer's operations and/or with the ability of counsel to adequately prepare for a pre-election hearing. Moreover, it's a stretch to argue that any time spent discussing appropriate unit issues with managers would be extremely disruptive to fulfillment center's operations; after all, counsel managed to obtain a declaration from (b) (6), (b) (7)(C) without evidently disrupting the fulfillment center's operations.

E. Conclusion.

8. If the Motion to Postpone is granted, the Union does not object to the deadline for the filing and service of the Employer Statement of Position to be extended until noon on December 8, 2020, with a corresponding extension of time granted to the Union for its Responsive Statement of Position.

WHEREFORE, the Union requests that the Employer's Motion to Postpone be denied and that the hearing be scheduled for December 11, with any continuation hearing scheduled no later than December 30, 2020.

Date: December 1, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Union's Response to the Employer's Motion to Postpone the Hearing and Extend Time for Filing of Statement of Position was filed today, December 1, 2020, using the NLRB's e-filing system and was served by email upon the following:

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

AMAZON Employer and RETAIL, WHOLESALE AND DEPARTMENT STORE UNION Petitioner	Case 10-RC-269250
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ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from to 10:00 AM on Friday, December 11, 2020 to **10:00 AM on Friday, December 18, 2020** via Zoom Videoconference. The hearing will continue on consecutive days until concluded.

The Statement of Position in this matter must be filed with the Regional Director and served on the parties listed on the petition by no later than **noon** Central time on **December 10, 2020**. The Responsive Statement of Position in this matter must be filed with the Regional Director and served on the parties listed on the petition by no later than **noon** Central time on **December 15, 2020**. The Statement of Position and the Responsive Statement of Position may be e-Filed but, however unlike other e-Filed documents, must be filed by noon Central time on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position and the Responsive Statement of Position are not required to be filed.

Dated: December 2, 2020



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